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Cleanup or Reclamation?

Gypsum Stack Cleanup Threatens Funding for Reclamation of Mined Lands

By [Kevin Bouffard](#)
The Ledger

LAKELAND Most people probably don't pay much attention to the gray dirt hills that dot the landscape of southern Polk County.

The stacks of gypsum standing 100 feet or higher have been part of the scenery along State Road 60 in Bartow and Mulberry for so many decades even longtime residents who know better probably consider them part of the natural landscape.

Officials at Florida's phosphate companies can't be so complacent.

The stacks of phosphogypsum, a gray mineral that's a byproduct of phosphate fertilizer manufacturing, create an environmental hazard.

The main threat comes from the acidic water that could flow off the stack into surface and underground water bodies if not contained. Phosphate companies spend millions of dollars annually to contain that threat.

State officials and Florida taxpayers can no longer afford complacency since the Department of Environmental Protection got stuck with a \$164 million cleanup bill for three gypsum stacks abandoned in 2001 by the bankrupt Mulberry Corp. phosphate company.

The \$164 million figure represents the estimated cleanup costs only during the next 10 years. The state will need to spend millions more in future decades.

Gypsum stacks are not the only environmental headaches afflicting the phosphate industry, the state and Polk.

Florida still has more than 21,000 acres of unreclaimed land the phosphate companies mined before 1975, when mandatory reclamation became law. Financing the gypsum stack cleanup threatens to exhaust state funds to reclaim those "old mined lands," most of them in Polk.

That doesn't sit well with former Polk County Commissioner Marlene Young, who chairs an advisory committee that oversees old mined land reclamation.

Leaving that reclamation job unfinished will affect economic development on those properties and Polk's economic future, she said.

"We cannot treat them as throwaway lands," said Young, a Realtor and executive director of the Community Foundation of Greater Winter Haven. "Some can be suitable for residential, business and industrial development."

That kind of valuable economic development won't happen without reclamation, she said. The unreclaimed land would be suitable only for less valuable uses, such as power plants or solid waste landfills.

"They're not going to be attractive for anything else," Young said. "They're going to look like throwaways."

Few outside the environmental community linked the two problems until 2001, when Mulberry Corp. went bankrupt and abandoned two gypsum stacks along State Road 60 in Mulberry and a huge stack at its Piney Point fertilizer plant in Manatee County.

That forced DEP intervention to avert an environmental disaster to Tampa Bay from the Piney Point stack. Without proper management, millions of gallons of acidic water held in the stacks by dikes could flow into the bay and destroy aquatic life.

That nearly happened in December, when a record 16.5 inches of rainfall for the month increased pressure on the dikes nearly to the breaking point, said Allan Bedwell, the DEP deputy secretary for regulatory programs.

"It was a one-in-500-year rainfall," said Bedwell, who estimated the acidic water level rose to within one inch of the dike's failure point.

Cleaning up the Mulberry Corp. stacks became inextricably linked to old mined lands reclamation in early 2001 after the company filed for bankruptcy and notified DEP it had no money to manage the gypsum stacks.

Looking for a source to pay for the cleanup, state officials turned to the Non-Mandatory Land Reclamation Fund, established to finance nearly 90,000 acres of old mined lands. A portion of the severance tax phosphate companies pay on each ton of phosphate ore mined in Florida finances the fund.

Owners of old mined lands apply to the fund for reclamation money.

In 2001, the fund looked flush with \$104 million of uncommitted money. A year earlier, the Legislature changed the severance tax law to halt contributions to the fund, which appeared to have enough money to complete old mined lands reclamation before the program sunsets in 2008.

To address the Mulberry Corp. problem, the Legislature changed the trust fund law to allow spending up to \$50 million from reserves for gypsum stack cleanups.

It also added a new tax of \$75,000 per year on every Florida gypsum stack for the next five years to finance the cleanup, estimated at the time to cost no more than \$30 million. The tax is projected to raise more than \$6 million.

Those rosy projections collapsed last year when a DEP consultant estimated cleaning up and monitoring the Mulberry Corp. stacks would cost \$164 million through the state's 2011-12 fiscal year, Bedwell said.

But the Non-Mandatory Land Reclamation Fund had a cash balance of only \$119 million as of June 30, he said. That's not enough to finance just the Piney Point cleanup, estimated at \$123 million over the next decade.

Without additional tax money flowing into the reclamation fund, the Mulberry Corp. cleanup would mean an estimated 21,275 acres of old mined lands would never be reclaimed.

"We're in the unfortunate positions of having to choose between environmentally beneficial reclamation and saving Tampa Bay," Bedwell said. "If I have to choose, I would choose Tampa Bay."

Young didn't dispute the importance of the gypsum stack cleanup.

"I understand the immediacy of the gypsum stack issues," she said. "There's no immediate public health crisis with unreclaimed lands."

But Young worried that once the Non-Mandatory Land Reclamation Fund runs dry, the Legislature won't refund it.

The political constituency for the environment in the 1970s, when the Legislature created the fund, doesn't exist today, she said. That's particularly true in Polk, which had 122,271 acres of unreclaimed mined lands before 1975.

"Everybody assumes if the land has not been reclaimed already, it will be reclaimed," Young said. "That's not a fair assumption."

The funding squeeze has not escaped notice from developers of old mined lands.

Young's committee in a typical year normally reviews applications to reclaim a few thousand acres, she said. This year, the state received applications to reclaim 9,406 acres, about half the remaining unreclaimed acreage, at an estimated cost of \$42 million.

Of those projects, 6,325 acres are in Polk and 3,081 are in Hillsborough County. The committee ranks those projects and submits its list to the DEP, which sets priorities in its budget recommendation to the Legislature.

The department's 2003-04 budget recommends spending

\$20 million from the fund, but only half would go toward old lands reclamation, Bedwell said. The remaining \$10 million would finance the Mulberry Corp. gypsum stacks cleanup.

The Legislature will also consider a phosphate industry plan that could finance both environmental projects. The industry has agreed to a 20 percent increase in the severance tax on phosphate ore.

That would raise the tax from \$1.30 per ton to \$1.58 effective Jan. 1 and raise an additional \$6 million to \$7 million a year, said Bob Hugli, the senior vice president for legislative affairs at the Florida Phosphate Council, the industry's trade group.

All five council members have endorsed the tax proposal, Hugli said. They are CF Industries Inc. in Bartow; Cargill Crop Nutrition, which has two Bartow fertilizer plants and mines in south Polk; IMC Phosphates Co. in Mulberry; and Fort Meade-based U.S. Agri-Chemicals Corp., which has a Bartow plant. PCS Phosphate-White Springs in North Florida is the fifth member.

Cargill is also contributing through a \$25 million contract with DEP to take over the cleanup of the two Mulberry Corp. stacks off State Road 60.

The cleanup will probably cost considerably more, said H. Gray Gordon, a Cargill vice president, but the company considers the Mulberry Corp. abandonment a "black eye on the industry" that requires a proactive response from other phosphate companies.

"The industry is aware of the effect the Mulberry situation has had on our public image," Gordon said. "We have to address it."

Despite the industry's united front and support for the proposal from Polk's two state senators, Republicans J.D. Alexander of Lake Wales and Paula Dockery of Lakeland, the severance tax reform faces an uncertain fate in this year's Legislature, which opened Tuesday.

To get more money for gypsum stacks and old mined lands, the industry proposes eliminating the \$10 million annual contribution from phosphate tax revenues to the Conservation and Recreational Lands (CARL) program, which buys and manages environmentally sensitive land for public use.

Audubon of Florida has said it would oppose redirecting the CARL contribution.

The industry proposal also freezes the severance tax contributions to the state's general fund and to the Florida Institute of Phosphate Research in Bartow at their current levels.

The Institute opposes the freeze, and the legislators are already steering millions of dollars out of trust funds into the general fund to close a projected \$4 billion deficit in the proposed 2003-04 budget.

"Certainly this year is going to be tough for new funding proposals," said state Sen. Tom Lee, R-Brandon, whose district includes part of the Lakeland area. "It's probably too soon to tell."
